

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**MAY 14, 2001**

**IN RE:**

**GASCO DISTRIBUTION SYSTEMS  
ACTUAL COST ADJUSTMENT (ACA) AUDIT**

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**DOCKET NO.  
00-00998**

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**ORDER ADOPTING ACA AUDIT REPORT OF  
TENNESSEE REGULATORY AUTHORITY'S ENERGY AND WATER DIVISION,  
ORDERING GASCO TO SHOW CAUSE WHY PENALTIES SHOULD NOT BE IMPOSED,  
AND APPOINTING HEARING OFFICER**

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This matter came before the Tennessee Regulatory Authority (the "Authority") at a regularly scheduled Authority Conference held on April 17, 2001, for consideration of the report of the Authority's Energy and Water Division (the "Staff") resulting from the Staff's audit of Gasco Distribution System's ("Gasco" or the "Company") annual deferred gas cost account filings for the year ended June 30, 2000. The Actual Cost Adjustment ("ACA") Audit Report (the "Report"), attached hereto as Exhibit 1, contains the audit findings of the Staff, the responses thereto of the Company, and the recommendations of the Staff to the Company in addressing the findings.

The Company submitted its ACA filings on October 23, 2000, and the Staff completed its audit of the Company's filings on March 29, 2001. On March 29, 2001, the Staff issued its preliminary ACA audit findings to the Company, and the Company responded to these findings on April 5, 2001. The Staff filed its Report with the Authority on April 5, 2001. The Report contains three findings.

Finding No. 1 states that Gasco had an over-recovery of \$11,317.93 as a result of the Company's failure to apply the correct ACA refund factor to its customers' bills for the months of November 1999 through June 2000. The Report states that the Company had similar problems during

its previous ACA audit period, July 1998 through June 1999. The Report further states that the Company responded to this finding by stating that it acknowledged the oversight but believed that it had resolved the problem by implementing a system of checking customers' bills before mailing and testing samples of customers' bills to determine whether the correct rates were being applied.

Finding No. 2 states that the Company used incorrect interest rates in adjusting the balance in its ACA account in accordance with the Authority's Purchased Gas Adjustment Rule, resulting in an under-recovery of \$72.88 in interest costs. The Report states that the Company responded to this finding by stating that it had used monthly rather than quarterly percentages in making this calculation and did not anticipate future problems in this regard.

Finding No. 3 states that the Company showed an over-recovery of interest in the amount of \$371.20 as a result of recalculation based on the first two findings. The Report states that the Company agreed with the interest adjustment computed as a result of Finding No. 1.

The Report states that, based on the three findings, the balance in the Company's refund due customers account as of June 30, 2000 should be a negative \$24,084.77. Accordingly, the Report states, the correct ACA adjustment factor to be applied to customer bills, beginning with the April 2001 billing period, is a negative \$.05017.

In addition to the three findings listed above, the Report states that "[b]ased on Staff Findings in the current audit and the fact that the Company did not remedy the issues in the last audit, we must conclude that Gasco has failed to comply with the Actual Cost Adjustment component of the Purchased Gas Adjustment ("PGA") Rule."<sup>1</sup> The Report further states that "[t]his adverse opinion is

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<sup>1</sup> Report, April 5, 2001, p. 9.

of great concern to the Staff.”<sup>2</sup> The Report lists three areas in which the Company “has shown deficiency.”<sup>3</sup>

First, the Report states that Gasco did not file its ACA report until October 23, 2000, 115 days after the close of the audit period. While acknowledging that the Authority’s PGA Rule does not specify a time limit for the required annual ACA filing, the Report cites Authority Rule 1220-4-1-.10(b), which requires gas utility companies to file quarterly or monthly reports, as appropriate, within sixty (60) days after end of the period covered in such reports. Using this Rule as a standard of reasonableness, the Report concludes that Gasco did not file its ACA report in a timely manner.

Second, the Report states that in the previous Staff ACA audit of the Company, in Authority Docket No. 99-00647, the Staff advised Gasco that the correct ACA adjustment factor to apply to its customers’ bills, beginning with the November 1999 billing, was a negative (i.e. a refund of) \$.05915. The Authority’s Order of November 24, 1999 approved and adopted the Staff’s audit report.<sup>4</sup> As the Report states, the Staff’s Finding No. 1 reveals that Gasco failed to change its billing system to implement the correct factor in accordance with the Staff’s audit report in Docket No. 99-00647. According to the Report, the Company stated that this factor was not implemented until November 2000, one (1) year after the Authority ordered the change. Therefore, as the Report states, the “Company was out of compliance for 365 days and could be subject to penalties, as outlined in T.C.A. §65-4-120.”<sup>5</sup> The Report further notes that the Company was cited for the same error in the previous

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Order Adopting ACA Audit Report of Authority’s Staff*, Docket No. 99-00647, November 24, 1999, p. 2.

<sup>5</sup> Report, April 5, 2001, p. 10. Tenn. Code Ann. § 65-4-120 provides that:

Any public utility which violates or fails to comply with any lawful order, judgment, finding, rule, or requirement of the authority, shall in the discretion of the authority be subject to a penalty of fifty dollars (\$50.00) for each day of any such violation or failure, which may be declared due and payable by the authority, upon complaint, and after hearing, and when paid, either voluntarily, or after suit, which may be brought by the authority, shall be placed to the credit of the public utility account.

audit and states that such failures “indicate[ ] a serious flaw in the Company’s internal accounting control.”<sup>6</sup>

Third, the Report cites the Company’s use of incorrect interest rates for each month of the audit period despite being furnished with the correct rate by the Authority Staff by letter on a quarterly basis. According to the Report, the Company responded to this finding by stating that one of its employees misinterpreted the Staff’s letter. Nevertheless, the Report states, the “Staff maintains that the letter is very clear as to the rate that applies to the appropriate calendar quarter.”<sup>7</sup> The Report notes that the Company was cited for the same error in the previous audit and states that this failure is “an example of extreme carelessness on the part of the Company.”<sup>8</sup>

At the April 17, 2001 Authority Conference, after consideration of the Report, the Authority unanimously approved and adopted the findings and recommendations contained therein. In addition, in view of the Company’s apparent non-compliance with the Authority’s November 24, 1999 Order in Docket No. 99-00647, the Authority unanimously ordered the Company, pursuant to Tenn. Code Ann. § 65-2-106, to show cause why the Authority should not impose penalties against the Company for such non-compliance and appointed Director Melvin J. Malone as Hearing Officer on the merits to consider the Company’s response and possible penalties. In addition, the Authority unanimously agreed that Director Malone may in his discretion allow this matter to travel together or in combination with Authority Dockets No. 97-00160 and No. 97-00293,<sup>9</sup> which involve similar issues related to Gasco and in which Director Malone serves as Hearing Officer.

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<sup>6</sup> Report, April 5, 2001, p. 10.

<sup>7</sup> *Id.*

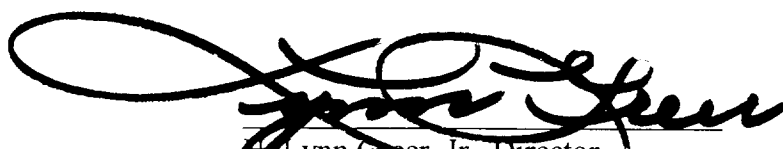
<sup>8</sup> Report, April 5, 2001, p. 10.

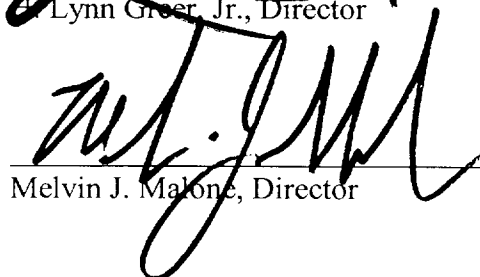
<sup>9</sup> These are consolidated dockets styled: In Re: Show Cause Proceeding Against Gasco Distribution Systems.

**IT IS THEREFORE ORDERED THAT:**

1. The Actual Cost Adjustment Audit Report, a copy of which is attached to this order as Exhibit 1, is approved and adopted, and the findings and recommendations contained therein are incorporated in this Order as if fully rewritten herein;
2. Pursuant to Tenn. Code Ann. § 65-2-106, Gasco is ordered to show cause why the Authority should not impose penalties against it for failure to comply with the Authority's November 24, 1999 Order in Authority Docket No. 99-00647;
3. Director Melvin J. Malone is appointed Hearing Officer on the merits to consider the Company's response to the Authority's show cause order and possible penalties against the Company pursuant to Tenn. Code Ann. § 65-4-120;
4. Director Malone is authorized, if he so chooses, to allow this matter to travel together or in combination with Authority Dockets No. 97-00160 and No. 97-00293; and
5. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.

  
Sara Kyle, Chairman

  
Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary